

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2025-36

Approved: May 20, 2025

**Re: Sergeant Jason Brodeur**

### **QUESTION PRESENTED:**

The Petitioner, a sergeant with the Warwick Police Department, a municipal employee position, requests an advisory opinion regarding whether the established alternate chain of command policy would sufficiently insulate him from conflicts of interest arising out of his position, given the police department's anticipated hiring of the Petitioner's nephew to work as a communications specialist/dispatcher.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the established alternate chain of command policy would sufficiently insulate the Petitioner, a sergeant with the Warwick Police Department, a municipal employee position, from conflicts of interest arising out of his position, given the police department's anticipated hiring of the Petitioner's nephew to work as a communications specialist/dispatcher.

The Petitioner was hired as a police officer by the Warwick Police Department in 2011, and was promoted to the rank of sergeant in 2020. In 2023, he was assigned to the Administrative Services Division (ASD), where he is one of two sergeants. The Petitioner further states that he and his fellow ASD sergeant report directly to the ASD Officer in Charge (OIC), who is either a captain or a lieutenant, depending upon the schedule's rotation. The Petitioner adds that an administrative major oversees the entire ASD. The Petitioner informs that he and the other ASD sergeant oversee the ASD Communications Center, which is staffed by 16 civilian full-time communications specialists/dispatchers who are tasked with answering non-emergency and emergency calls for service and then dispatching officers to respond to those calls. He explains that the communications center is a 24/7 operation, and that there must be at least two dispatchers on duty at all times.<sup>1</sup> The hours for ASD dispatchers are as follows: 7:00 a.m. – 3:00 p.m. (1<sup>st</sup> shift); 3:00 p.m. – 11:00 p.m. (2<sup>nd</sup> shift); and 11:00 p.m. – 7:00 a.m. (3<sup>rd</sup> shift). The Petitioner states that he and the other ASD sergeant, whose duties are identical, work the 1<sup>st</sup> shift together, Monday through Friday. The Petitioner explains that, outside of the hours of 7:00 a.m. – 3:00 p.m.

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<sup>1</sup> The Petitioner states that, ideally, there will be three dispatchers on duty at all times.

each Monday through Friday, supervision of the ASD dispatchers falls to the captain or lieutenant in charge of patrol, which may or may not be the captain or lieutenant assigned to the ASD.<sup>2</sup>

The Petitioner states that his nephew recently applied to become a dispatcher for the Warwick Police Department, and ranked first on the employment list. The Petitioner further states that the City of Warwick has a civil service system in place whereby candidates must meet minimum qualifications for a job, sit for a written test, and achieve a passing score in order to advance to the typing test, which is pass/fail. He adds that candidates who pass the typing test are invited to a structured, scored interview conducted by a panel comprised of the city's personnel department and two police officials. The Petitioner informs that a candidate's final score is weighed 60% based on the written test, and 40% based on the interview performance. He explains that candidates are rank ordered based on their final earned rating, and that the department must then select someone from the top three candidates. The Petitioner represents that he learned about his nephew's application to become a dispatcher when the Petitioner arrived to greet the applicants as a group to explain the demands of the position, such as the requirement that dispatchers work nights, weekends, holidays, and third shift to start, in case anyone then decided to withdraw their application. The Petitioner further represents that he saw his nephew among the candidates, immediately notified the ASD lieutenant of his conflict of interest, and removed himself from any involvement in the selection process for the new dispatcher.<sup>3</sup>

The Petitioner represents that his nephew, if selected to become a dispatcher, would serve a six-month period of probation during which the employment relationship could be terminated without recourse under the "just cause" provisions of the collective bargaining agreement between the city and Council 94 of the American Federation of State, County, and Municipal Employees (AFSCME), the union to which the dispatchers belong. The Petitioner explains that his nephew would start out on the first or second shift and be trained by the more experienced dispatchers and, eventually, transition to the third shift as a junior dispatcher. The Petitioner states that it is the custom of the police department to have the more experienced dispatchers train new staff and provide feedback to the sergeants and lieutenant regarding their progress. The Petitioner further states that, ordinarily, both he and the other ASD sergeant would participate in the training of new dispatchers and provide input on a new employee's probationary period performance. The Petitioner informs that, in the event that dispatcher staffing drops to below the minimum two people

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<sup>2</sup> The Petitioner identifies the ranks within the Warwick Police Department in descending order as follows: chief, deputy chief, major, captain, lieutenant, sergeant, and patrol officer.

<sup>3</sup> The Petitioner explains that he had not been involved in the selection process for a new dispatcher prior to arriving to address the candidates about the demands of the position. He adds that the ASD lieutenant, the other ASD sergeant, and a representative from the city's personnel division constituted the interview panel of final candidates.

required on a particular shift, a notice will go out to all dispatchers on the Police Detail Systems website informing them of the opportunity to work overtime. He adds that, if no one takes the shift, a rotating list of forces will be employed, whereby a person on the previous shift will be required to remain on shift for an additional four hours, and a person on the following shift will be required to arrive for their shift four hours early. The Petitioner states that neither he nor the other ASD sergeant exercise any discretion with regard to dispatcher overtime. The Petitioner represents that, ordinarily, routine matters of dispatcher discipline, such as counseling and/or verbal and written warnings, can be dispensed by the ASD sergeants. He adds that matters of performance and discipline are moved up the chain of command to the ASD-OIC, and that serious matters that may result in suspension or termination will be brought to the major or deputy chief, who will then work in consultation with the personnel department toward an outcome.

In light of the conflicts of interest that would result because of the Petitioner's role as an ASD sergeant in the division by which his nephew is expected to become employed as a dispatcher, including but not limited to those referenced above, an alternate chain of command has been established. Pursuant to that alternate chain of command, any matters concerning his nephew's training, supervision, evaluation, discipline, and/or decisions regarding his nephew's work hours or requests for furlough which carry with them any amount of discretion on the part of the Petitioner, will instead be performed by either the other ASD sergeant, or the captain or lieutenant serving as the ASD-OIC or, in the absence of the ASD-OIC, by whoever is covering for that person. The Petitioner represents that the other ASD sergeant and their superiors within the ASD agree with the proposed alternate chain of command.

The Code of Ethics provides that a public employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if the public employee has reason to believe or expect that any person within his family, among others, will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Also, a public employee may not use his public position to obtain financial gain, other than that provided by law, for any person within his family, among others. § 36-14-5(d).

The Code of Ethics contains specific provisions aimed at curbing nepotism which are laid out in 520-RICR-00-00-1.3.1 Prohibited Activities - Nepotism (36-14-5004) (Regulation 1.3.1). Pursuant to Regulation 1.3.1(B)(1), a public employee may not participate in any matter as part of his public duties if there is reason to believe or expect that any person within his family is a party to or participant in such matter, or will be financially impacted or obtain an employment advantage by reason of the public employee's participation. Additionally, Regulation 1.3.1(B)(2) prohibits a public employee from participating in the supervision, evaluation, appointment, classification, promotion, transfer, or discipline of

any person within his family, or from delegating such tasks to a subordinate, except in accordance with advice received in a formal advisory opinion from the Ethics Commission. The phrase “any person within his [] family” expressly includes “nephew.” Regulation 1.3.1(A)(2).

The Ethics Commission has issued numerous advisory opinions applying the provisions of the Code of Ethics to analogous questions involving family members. In those opinions, the Ethics Commission took the position that a public employee serving in a supervisory capacity would satisfy the conflict of interest and nepotism provisions of the Code of Ethics by recusing from participation in matters directly affecting his family member. For example, in Advisory Opinion 2018-21, the Ethics Commission determined that the established alternate supervisory chain of command was sufficient to insulate the petitioner, a sergeant with the Cumberland Police Department who had recently been assigned to the detective division, from conflicts of interest arising out of his new position, notwithstanding that his spouse was one of two detectives already serving in the same division. There, the petitioner’s new duties as a detective sergeant included not only the investigation and prosecution of cases, but the supervision of the other detectives in the division, thus, placing his spouse in a position subordinate to his. Prior to the petitioner’s assignment to the detective division, both detectives were supervised and reported directly to the captain, who reported to the deputy chief, who reported to the chief. The alternate chain of command submitted proposed that the petitioner’s spouse would continue to report to, and be directly supervised, by the captain. In the captain’s absence, such supervision would be exercised by the deputy chief and, in the event of the deputy chief’s unavailability, by the chief. See also A.O. 2005-19 (opining that the Code of Ethics would not prohibit the chief of the Cranston Police Department from continuing in that position, notwithstanding that his brother served in the department, given that an alternate chain of command had been established wherein the mayor would replace the chief as the final decision-maker on matters concerning the chief’s brother).

Similarly, in the instant matter, it is our opinion that the alternate chain of command policy outlined by the Petitioner and his superiors within the ASD, which requires the Petitioner to recuse from any decisions that may financially impact his nephew (including, but not limited to, his nephew’s supervision, evaluation, work assignment, promotion, transfer, and discipline) is reasonable and sufficient to insulate the Petitioner from apparent conflicts of interest. As we have noted in prior advisory opinions issued to public safety personnel whose family members were employed by the same municipal agency, during discrete emergency situations where incident-specific supervision of his nephew may be unavoidable, no nepotism violation of the Code of Ethics will exist for the Petitioner. See, e.g., A.O. 2016-26 (opining that the Code of Ethics did not prohibit a lieutenant in the East Greenwich Fire Department from serving in that position upon the hiring of his brother as a probationary firefighter in the same department, provided that certain procedures were followed so that the lieutenant was removed from personnel decisions or other matters that particularly affected his family member, but that if, during discrete emergency situations,

such as fighting fires where incident-specific supervision of his brother may be unavoidable, no violation of the Code of Ethics would exist). The Petitioner is encouraged, however, to remain vigilant about identifying and avoiding any conflicts of interest that might arise given his nephew's position that are not addressed herein and is encouraged to seek further guidance from the Ethics Commission as needed. All episodes of recusal must be exercised consistent with the provisions of R.I. Gen. Laws § 36-14-6.

**This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.**

Code Citations:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004)

Related Advisory Opinions:

A.O. 2018-21

A.O. 2016-26

A.O. 2005-19

Keywords:

Family: Public Employment

Family: Supervision

Nepotism